

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

WHISPERING OAKS RESIDENTIAL FACILITY, LLC.,

Appellant

v.

MISSOURI DEPARTMENT OF NATURAL RESOURCES.

Respondent

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DOCKET NUMBER WD77639

DATE: MARCH 10, 2015

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Appeal From:

Circuit Court of Cole County, MO  
The Honorable Jon Edward Beetem, Judge

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Appellate Judges:

Division Two  
Anthony Rex Gabbert, PJ., Joseph M. Ellis, Karen King Mitchell, JJ.

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Attorneys:

Ann M. Konold, Chesterfield, MO,

Counsel for Appellant

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Attorneys:

Timothy P. Duggan, Jefferson City, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**WHISPERING OAKS RESIDENTIAL  
FACILITY, LLC.,**

**Appellant,**

**v.**

**MISSOURI DEPARTMENT OF NATURAL  
RESOURCES,**

**Respondent.**

**WD77639**

**Cole County**

**Before Division Two Judges: Anthony Rex Gabbert, PJ., Joseph M. Ellis, Karen King Mitchell, JJ.**

Whispering Oaks Residential Facility, LLC., appeals the Administrative Hearing Commission's ("AHC") decision dismissing its appeal for lack of jurisdiction. Whispering Oaks also appeals the circuit court's decision upholding the AHC's decision, denying its requested relief under § 536.150, RSMo 2000, and dismissing its petition for failure to state a claim. First, Whispering Oaks argues that the AHC erred in dismissing its complaint because the AHC is obligated to hold a hearing in a contested matter and the Department of Natural Resources' ("DNR") decision to decline to issue a letter of deactivation amounted to a decision by DNR, subject to review by the AHC. Alternatively, Whispering Oaks argues that the circuit court erred in dismissing its complaint because the trial court is obligated to hold a hearing in a noncontested matter under § 536.150, and DNR's refusal to issue a deactivation letter was subject to review by the circuit court.

**AFFIRM.**

**Division Two holds:**

Whispering Oaks first point on appeal is dismissed because Whispering Oaks failed to challenge the ground upon which the AHC dismissed its petition, preserving nothing for this Court to review. Further, the trial court did not error in dismissing Whispering Oaks's petition for failure to state a legal claim because Whispering Oaks failed to provide any legal authority creating a legal right or privilege to the deactivation letter.

Opinion by Anthony Rex Gabbert, Judge

Date:3/10/15

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